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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
JOE MILAM CATHEY,)
)
Defendant.)

No. CR 06-267 SI

[PROPOSED] ORDER AND STIPULATION
(1) EXCLUDING TIME FROM MAY 5,
2006 TO JUNE 9, 2006 FROM THE
SPEEDY TRIAL ACT CALCULATION
(18 U.S.C. § 3161(h)(8)(A)); (2) VACATING
MAY 26, 2006 HEARING DATE; AND (3)
SCHEDULING JUNE 9, 2006 HEARING
DATE

The parties appeared before the Honorable Elizabeth D. Laporte on May 5, 2006, May 9, 2006, May 18, 2006 and May 19, 2006. On May 5, 2006, the government moved for detention; on May 9, 2006, May 18, 2006 and May 19, 2006, further proceedings relating to the government's motion were heard. On May 19, 2006, the Honorable Elizabeth D. Laporte ordered the defendant released on agreed-upon conditions, and scheduled a hearing date of May 26, 2006 before the Honorable Susan Illston.

Counsel for both the defendant and the government are not available on May 26, 2006. Counsel for the government is expected to be in trial for at least two days during the week of May 22, 2006, and has not yet been able to provide discovery to the defendant's counsel. Both

counsel will be available for the first appearance before the District Court on June 9, 2006.

Accordingly, the parties hereby agree, and the Court finds and holds as follows:

1. During the time proceedings relating to the government's motion for detention were pending, *i.e.*, from May 5, 2006 to May 19, 2006, time was excluded from the Speedy Trial clock pursuant to 18 U.S.C. § 3161(h)(1)(F).

2. The parties agree to an exclusion of time under the Speedy Trial Act from May 19, 2006 to June 9, 2006, in light of both counsel's unavailability on May 26, 2006, the need for the government to produce discovery, and the need for the defendant's counsel to review such discovery. Failure to grant the requested continuance would unreasonably deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence and the need for new counsel to review the discovery and meet with the defendant, and would deny both the defendant and the government continuity of counsel.

3. Given these circumstances, the Court found that the ends of justice served by excluding the period from May 19, 2006 to June 9, 2006, outweigh the best interest of the public and the defendant in a speedy trial. *Id.* § 3161(h)(8)(A).

4. Accordingly, and with the consent of the defendant, the Court ordered that the period from May 19, 2006 to June 9, 2006 be excluded from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

5. The Court vacates the hearing currently set for May 26, 2006 at 11:00 a.m., and schedules a new hearing on June 9, 2006.

IT IS SO STIPULATED.

DATED: _____

/S/
TRACIE L. BROWN
Assistant United States Attorney

DATED: _____

/S/
ELIZABETH FALK (for STEVEN
KALAR)
Attorney for Joe Milam Cathey

1 IT IS SO ORDERED.

2
3 DATED: _____



THE HON. SUSAN ILLSTON
United States District Judge